

MINUTES

INDIANA RESPIRATORY CARE COMMITTEE

OCTOBER 12, 2007

I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Mr. Konkle called the meeting to order at 10:00 a.m. in Room 1 of the Conference Center, Indiana Government Center South, 302 West Washington Street, Indianapolis, Indiana.

Committee Members Present:

Thomas Konkle, R.C.P., Chairman
Sally Park-Teelon, R.C.P., Member
Gary L. Smith, R.C.P., Member

Committee Members Absent:

Margaret Sullivan, Consumer Member

State Officials Present:

Cindy Vaught, Board Director, Professional Licensing Agency
Elizabeth Brown, Deputy Attorney General, Office of the Attorney General

II. ADOPTION OF THE AGENDA

A motion was made and seconded to adopt the agenda, as amended.

PARK-TEELON/SMITH
Motion carried 3-0-0

III. ADOPTION OF THE MINUTES

A motion was made and seconded to adopt the minutes from the July 20, 2007 meeting of the Committee.

PARK-TEELON/SMITH
Motion carried 3-0-0

IV. APPEARANCES

A. APPLICATION

1. Mandy Dawn Brenner

Ms. Brenner appeared before the Committee, as requested, regarding her application for licensure by examination. Ms. Brenner is a 2007 graduate of Ivy Tech Community College and has taken and passed the NBRC examination. Ms. Brenner does not hold a license at this time. On her application she answered "yes" to question 5b asking, "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" In December of 2002 Ms. Brenner was arrested and convicted for operating a

vehicle while intoxicated. She has completed all of the probation, classes and paid all fees and restitution required.

Committee Action: A motion was made and seconded to grant Ms. Brenner a respiratory care license.

KONKLE/PARK-TEELON
Motion carried 3-0-0

2. William V. Buchanan

Mr. Buchanan appeared before the Committee, as requested, regarding his application for licensure by endorsement. Mr. Buchanan is a 1983 graduate of California College and has taken and passed the NBRC examination. He holds a license in Mississippi and Wyoming. On his application he answered "yes" to question 5b asking, "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" Mr. Buchanan stated that seven years ago he was arrested for driving under the influence. He did all that was required by the court and has not drank alcohol since that time. Mr. Buchanan is a 1983 graduate of California College and has taken and passed the NBRC examination. He holds a license in Mississippi and Wyoming.

Committee Action: A motion was made and seconded to grant Mr. Buchanan a respiratory care license.

KONKLE/PARK-TEELON
Motion carried 3-0-0

3. James Allan Harter

Mr. Harter appeared before the Committee, as requested, regarding his application for licensure by endorsement. Mr. Harter is a 1996 graduate of Western Wisconsin Technical College and has taken and passed the NBRC examination. He holds a license in Wisconsin. On his application he answered "yes" to question 5b asking, "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" Mr. Harter stated that in September 1994 in La Crosse, Wisconsin he was arrested for driving while intoxicated. He completed the alcohol classes that were ordered by the court.

Committee Action: A motion was made and seconded to grant Mr. Harter a respiratory care license.

PARK-TEELON/SMITH
Motion carried 3-0-0

4. Terence Williams Lewis

Mr. Lewis appeared before the Committee, as requested, regarding his application for licensure by endorsement. Mr. Lewis was asked to appear because he did not graduate from an approved program and he is seeking a waiver of the educational requirement since he has been practicing respiratory care since 1972. Mr. Lewis took and passed a Florida State credentialing examination in 1987. Mr. Lewis currently holds an active license in Illinois and an expired license in the state of Florida.

Committee Action: A motion was made and seconded to grant the waiver of the educational requirement and Mr. Lewis' application for a respiratory care license.

KONKLE/SMITH
Motion carried 3-0-0

5. Sue A. Miller

Ms. Miller appeared before the Committee, as requested, regarding her application for a temporary permit. Ms. Miller is a 2005 graduate of Collins Career Center and has taken and passed the NBRC examination. Ms. Miller holds a license in Ohio, Kentucky, Alabama, and West Virginia. On her application she answered "yes" to question 4 asking, "Are you now or have you ever been treated for drug and alcohol abuse?" She also answered "yes" to question 5b asking, "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" Ms. Miller has a record of several misdemeanor convictions from 1984 to 2000. Ms. Miller explained that in June 1984 she was arrested for driving under the influence and met all of the court ordered requirements. In November 1988 she was arrested again for driving under the influence and met all of the court ordered requirements. In June 1989 she was arrested for petty theft when she attempted to steal clothes from a Lazarus store and was placed on probation for one year. In August 1995 she was arrested again for driving under the influence and met all of the court ordered requirements. In March 1996 she was charged with assaulting a police officer and served home incarceration, probation, AA meetings, and paid fines. In January 1997 she was arrested again for petty theft when she left without paying for gas for which she paid a fine. In December 1997 she was arrested for public intoxication and paid a fine. In April 1998 she was pulled over for speeding and was ticketed for not having a driver's license because she stated it was expired. She renewed her license and showed it to the judge at her court date but was found guilty and fined. In November 1998 she was told to leave a casino by security. When she became upset she was arrested for battery by bodily waste because the officer claimed she spit on him. She served fourteen days in jail, paid a fine, probation, and AA meetings. In April 1999 she was arrested for disorderly conduct after having a physical and verbal altercation with her friend for which she paid a fine. In August 2000 she was arrested again for driving under the influence. It was after this arrest that she attended an intensive outpatient alcohol program. Ms. Miller explained that she has not had a drink since August 27, 2000 and attends 3 AA meetings per week. She explained all of the steps she has taken to turn her life around.

Committee Action: A motion was made and seconded to grant Ms. Miller a temporary permit and a respiratory care license upon completion of her application file.

KONKLE/SMITH
Motion carried 2-1-0
Ms. Park-Teelon dissented

6. Carrie Anne Werbe

Ms. Werbe appeared before the Committee, as requested, regarding her application for licensure by examination. Ms. Werbe is a 2007 graduate of Ivy Tech Community College and has taken and passed the NBRC examination. She does not hold a license at this time. On her application she answered "yes"

to question 5b asking, "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" She explained to the Committee that in 2000 she was arrested for possession of marijuana because she had a roommate who was growing it in a closet. She served four months home detention followed by one year of probation.

Committee Action: A motion was made and seconded to grant Ms. Werbe a respiratory care license.

KONKLE/SMITH
Motion carried 3-0-0

B. RENEWAL

1. Susan Ruth Polk

Ms. Polk appeared with counsel, Frederick Bremer, for the Committee to consider her request for surrender of license. Ms. Polk was sent a letter on May 4, 2007, informing her that the Committee was conducting an audit of continuing education records and that she had been randomly selected to participate in the audit. The letter instructed the Practitioner to submit copies of certificates of completion for continuing education courses totaling 15 hours for the time period of January 1, 2005 through December 31, 2006. The Practitioner provided documentation of only completing 2.5 hours of continuing education for the audited time period. The Committee issued a notice of noncompliance to the Practitioner on September 12, 2007, advising that the audit found a deficiency of 12.5 hours of continuing education for the time period of January 1, 2005 through December 31, 2006. The notice of noncompliance also advised that the Practitioner was being issued a conditional license to practice respiratory care, that she was required to pay a penalty of \$625.00 within 21 days, and that she had to complete 12.5 hours of continuing education within six months. Ms. Polk stated that she has a health condition and would be unable to practice respiratory care in the future.

Committee Action: A motion was made and seconded to accept the surrender of Ms. Polk's Indiana respiratory care license.

KONKLE/PARK-TEELON
Motion carried 3-0-0

V. ADMINISTRATIVE HEARINGS

A. State of Indiana v. Susan Elaine Cate, R.C.P., License No. 30006740A
Administrative Cause No. 2006 RCC 0008
Re: Order to Show Cause

Parties and Counsel Present:

Respondent was present and was not represented by counsel
The State of Indiana was not represented
Felicia Warren, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)
Ms. Park-Teelon
Mr. Smith

Case Summary: On August 30, 2007 the Committee issued an Order to Show Cause why Respondent's license to practice respiratory care in the State of Indiana should not be summarily suspended, on an emergency basis, or whether other disciplinary action should be imposed due to noncompliance with the probationary terms as set forth in the Committee's Order of November 13, 2006. The Respondent has not submitted a standing order from a physician for random urine test for drug and alcohol within the thirty (30) days from the date of the probationary order and completed twenty-two (22) hours of continuing education and submitted verification of said hours to the Committee within six (6) months of the date of the probationary order. The Respondent explained she did not understand what the Committee wanted when they said they wanted a standing order so she did not get one. She also presented proof of completion of what she thought was twenty-two (22) hours of continuing education but was actually proof of only twelve (12) hours.

Committee Action: After hearing testimony and evidence presented, a motion was made and seconded to Indefinitely Suspend the Respondent's respiratory license with the following terms and conditions:

1. The Practitioner's license is suspended until such time as she submits documentation that she has completed the additional ten (10) hours of continuing education and she submits a standing order from a physician for random urine tests for drug and alcohol use.
2. Upon submission of the required documentation the Practitioner's license shall be reinstated.
3. The Practitioner shall personally appear before the Committee at its meeting on January 25, 2008, or as requested by the Committee.
4. The Practitioner shall comply with all terms and conditions of her probation as listed in the Committee's order dated November 13, 2006.
5. The failure of the Practitioner to comply with the requirements of probation may subject her to a show cause hearing before the Committee and the imposition of further sanctions, including suspension or revocation of her license.

KONKLE/PRAK-TEELON
Motion carried 3-0-0

B. State of Indiana v. Charles Anthony Hodges, R.C.P., License No. 30005450A
Administrative Cause No. 2004 RCC 0015
Re: Order to Show Cause

Parties and Counsel Present:

Respondent was present and was not represented by counsel
Shelley Johnson, Deputy Attorney General for the State of Indiana
Felicia Warren, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)
Ms. Park-Teelon
Mr. Smith

Case Summary: On August 28, 2007 the Committee issued an Order to Show Cause why the Respondent's respiratory license should not be summarily suspended, on an emergency basis, or whether other disciplinary action should be imposed due to noncompliance with the probationary terms as set forth in the Committee's Order of November 8, 2005. Respondent has not submitted quarterly reports for the months of February and May 2007 documenting his weekly

attendance at NA meetings as required by the terms of his probation. Respondent submitted documentation of his attendance at NA meetings; however, the Committee found that the document contained insufficient information to verify the Respondent's attendance at the NA meetings required by the terms of his probation. The Committee finds that the Respondent is not in compliance with the terms and conditions of his probation

Committee Action: A motion was made and seconded, that Mr. Hodges' license shall remain on indefinite probation with the current terms and conditions. Mr. Hodges shall comply with the following:

1. The Respondent's license shall remain on indefinite probation.
2. The Respondent shall submit to the Committee, no later than November 30, 2007, all delinquent and current quarterly reports to document his attendance at the required weekly NA meetings. The documentation must include the date, time and location of the meetings attended and be initialed by the meeting leader. The Respondent shall also make arrangements to have a sponsor for his participation in NA.
3. The Respondent shall ensure that his employer timely submits all required quarterly reports to the Committee and that all employer reports are current as of November 30, 2007.
4. The Respondent shall personally appear before the Committee at its meetings in April and October 2008, or as requested by the Committee, and shall demonstrate to the Committee that he understands the principals of the 12-step AA/NA program.
5. The Respondent shall comply with all terms and conditions of his probation as listed in the Committee's order dated November 8, 2006.
6. The failure of the Respondent to comply with the requirements of probation may subject him to a show cause hearing before the Committee and the imposition of further sanctions, including suspension or revocation of his license.

KONKLE/SMITH
Motion carried 2-0-1
Ms. Park-Teelon abstained

C. State of Indiana v. Althea P. Merback, R.C.P., License No. 30002823A
Administrative Cause No. 2005 RCC 0020
Re: Respondent's Motion to Reinstate

Parties and Counsel Present:

Respondent was present and was not represented by counsel
Shelley Johnson, Deputy Attorney General for the State of Indiana
Felicia Warren, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)
Ms. Park-Teelon
Mr. Smith

Case Summary: The Respondent petitioned the Committee to reinstate her respiratory care license. Respondent's license was suspended January 9, 2006 for failure to comply with a continuing education audit for the period of January 1, 1997 through December 31, 1998. The Respondent's license has been expired since 2002. In order for the Committee to reinstate Respondent's license to active status she will need to complete ninety (90) hours of continuing education which can date

back to January 1, 1997 and retake and pass the NBRC examination. Respondent submitted proof of eighty-six (86) hours of continuing education but has not completed the NBRC examination.

Committee Action: A motion was made and seconded to reinstate the Respondent's respiratory license to an expired status until such time she has met the requirements for renewal.

KONKLE/SMITH
Motion carried 2-0-1
Ms. Park-Teelon abstained

D. State of Indiana v. Karen Mitchell, R.C.P., License No. 30000780A
Administrative Cause No. 2007 RCC 0008
Re: Appeal of Denial of Continuing Education Waiver

Parties and Counsel Present:

Respondent was present and was not represented by counsel
The State of Indiana was not represented
Felicia Warren, Court Reporter

Participating Board Members:

Mr. Konkle (Hearing Officer)
Mr. Smith
Ms. Park-Teelon

Case Summary: Ms. Mitchell petitioned the Committee for review of the Committee's denial of her request for waiver of continuing education for renewal. On December 28, 2006, the Practitioner submitted an application for renewal of her license and a request for waiver of the continuing education requirements for the renewal period because of an incapacitating illness that prevents her from obtaining the required continuing education hours. The Committee considered the waiver request at its meeting on January 26, 2007, and determined that additional information was needed in order to make a decision on the request. On February 14, 2007, the Committee sent a letter to the Practitioner requesting additional information, specifically written documentation from her physician that describes her illness and documentation of any continuing education hours completed for the renewal period. The Practitioner submitted additional information that the Committee considered at its meeting on April 20, 2007. After reviewing the information provided by the Practitioner, the Committee denied the Practitioner's request for a waiver from the continuing education requirements. The Practitioner timely filed a request for review of the Committee's decision to deny her waiver request. The Practitioner submitted documentation that she is being treated for several medical conditions. The Practitioner testified that she has not been able to work since January 24, 2005, and that she is on long-term disability from her job and awaiting a final disposition of her application for Social Security disability. The Practitioner was not able to fulfill the continuing education requirements for the period of January 1, 2005 through December 31, 2006 because of her medical conditions. The Practitioner's request for waiver of the continuing education requirements for the renewal period of January 1, 2005 through December 31, 2006 is granted.

Committee Action: A motion was made and seconded to grant the waiver of the continuing education requirement for the renewal period of January 1, 2005 through December 31, 2006.

KONKLE/PARK-TEELON
Motion carried 3-0-0
Mr. Konkle abstained

VI. NOTICE OF PROPOSED DEFAULT/DISMISSAL

A. State of Indiana v. Lisa Zeigler Williams, R.C.P., License No. 30002238A
Administrative Cause No. 2006 RCC 0004

Parties and Counsel Present:

Respondent was not present and was not represented by counsel
Morgan Wills, Deputy Attorney General for the State of Indiana
Felicia Warren, Court Reporter

Participating Committee Members:

Mr. Konkle (Hearing Officer)
Ms. Park-Teelon
Mr. Smith

Case Summary: The State requested the Committee find the Respondent in default.

Committee Action: A motion was made and seconded to find the Respondent in default.

KONKLE/PARK-TEELON
Motion carried 3-0-0

Case Summary: The State entered into evidence exhibit "A" which is a Bedford Police Department report showing charges were filed and hearing was scheduled for October 5, 2007 for a change of plea. 2. Respondent was employed at Bedford Regional Medical Center ("Bedford") from March 2, 2005 until February 6, 2006. Respondent was primarily employed in Bedford's Sleep Disorders Center, but she did work some hours in the Respiratory Therapy Department. On or around February 4, 2006, Respondent entered the room of I.G., a patient at Bedford, and informed I.G.'s daughter that she was going to listen to I.G.'s chest. While the Respondent was listening to I.G.'s chest, I.G. yelled. The Respondent told I.G.'s daughter that I.G.'s hospital gown was stuck to I.G.'s duragesic patch and that it would have to be re-taped. The Respondent left the room and came back with tape and left a short time later. I.G.'s nurse then came into her room and discovered that the duragesic patch was not adhered to the skin with the original clear adhesive patch but had been taped. Upon inspecting the patch, the nurse discovered that underneath the patch's sheath, the medicated portion of the patch had been cut away. I.G.'s daughter informed the nurse that no one other than the person I.G.'s daughter would later identify as the Respondent had been in the room. The nurse notified Brenda Davis ("Davis"), Bedford's vice president of Patient Services. Davis at that time recalled an incident that occurred on January 30, 2006 involving an employee's husband who was a patient at Bedford. The employee told Davis that a woman in scrubs entered her husband's room and stated that she was going to listen to his chest. The woman then stated that the husband's duragesic patch was loose and that she would replace the patch. The woman left with the patch and never returned. A search of the hospital was conducted, but staff was unable to locate the person matching the woman's description. On or around February 5, 2006, Davis phoned the employee involved in the January 30, 2006 incident and asked her to come to the hospital to see if she could identify the woman who took the patch. When a picture of the Respondent was showed to the employee, she indicated that while she could not identify woman 100% because she did not look the woman directly in the face, she believed the woman was the

Respondent due to the Respondent having the same body build, hair length, and color. On or around February 6, 2006, Respondent's employment with Bedford was terminated due to evidence that the Respondent had diverted controlled substances from patients at Bedford. On or around February 13, 2006, Indiana Professional Licensing Agency received a letter from the Respondent dated February 8, 2006. In the letter, the Respondent indicated that her employment as a respiratory care practitioner had been terminated. She further stated that she "will begin treatment for my drug abuse problem as soon as possible." On or around July 13, 2006, Respondent was charged in Lawrence Circuit Court under cause no. 47C01-0607-FD-360 with Theft, a Class D Felony, and Battery, a Class B Misdemeanor, resulting from the incident at Bedford. Criminal charges are still pending.

Committee Action: A motion was made and seconded to Indefinitely Suspend the Respondent's Indiana respiratory care license for a period of ninety-nine (99) years.

KONKLE/PARK-TEELON
Motion carried 3-0-0

VII. SETTLEMENT AGREEMENTS

There were no settlement agreements before the Committee.

VIII. OLD/NEW BUSINESS

There was no Old/New business discussed.

IX. DISCUSSION

A. National Board for Respiratory Care
Re: State Licensure Liaison Group Meeting Information

The Committee took notice of copies of a power point presentation that was given at the 2007 licensure liaison group meeting. Currently 48 states have licensure.

X. APPLICATION REVIEW

- A. Endorsement**
There were no endorsement applications to review.
- B. Examination**
There were no examination applications to review.
- C. Credentials**
There were no credential applications to review.
- D. Temporary Permits**
There were no temporary permits to review.
- E. Student Permits**
There were no student permits to review.

XI. PROBATIONARY REPORT

A. Robert Parish, RCP, Cause No.

Mr. Parish's probationary file was reviewed. He has not complied with the terms set forth in the probationary order filed on February 23, 2007. Mr. Parish has not submitted a standing order from a physician for random urine test for drug and alcohol within the thirty (30) days from the date of the probationary order and provided his place of employment, supervisor, occupation title, work schedule and quarterly reports for May, August and November from his employer.

Committee Action: A motion was made and seconded to issue an Order to Show Cause as to why his license should not be summarily suspended, on an emergency basis or whether other disciplinary action should be imposed due to noncompliance with the probationary terms. Indefinitely Suspend the Respondent's Indiana respiratory care license for a period of ninety-nine (99) years.

KONKLE/PARK-TEELON
Motion carried 3-0-0

D. Drug Screens

The Committee reviewed information regarding the different types of drug screens that was received for several individuals. After review, it was the consensus of the Committee to have all practitioners who are required to complete drug screens, to complete an 11 panel screen when required to do so by the Committee.

XII. CONTINUING EDUCATION

1. Scoring Unlimited

"Review in Polysomnography"

June 1-2, 2007

August 31, 2007

September 1, 2007

November 9-10, 2007

New Castle, Indiana

Hours: Denied by the Committee

XIII. OTHER ITEMS FOR CONSIDERATION

XIV. ADJOURNMENT

There being no further business, and having completed its duties, the meeting of the Indiana Respiratory Care Committee adjourned at 1:30 p.m.


Thomas Konkle, Chairman

1/25/08
Date